

**IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
BRYSON CITY DIVISION  
2:07cr25**

<b>UNITED STATES OF AMERICA,</b>	)	
	)	
<b>Vs.</b>	)	<b>ORDER</b>
	)	
<b>CHRISTOPHER CURTIS EATON,</b>	)	
	)	
<b>Defendant.</b>	)	
_____	)	

THIS CAUSE coming on to be heard and being heard before the undersigned upon a violation report filed in this matter on November 30, 2007 (#14). In the violation report, the United States Probation Office alleged that the defendant had violated terms and conditions of his pretrial release. At the call of this matter on for hearing it appeared that the defendant was present with his counsel, Eric J. Foster, and that the Government was present through Assistant United States Attorney, Jill Westmoreland Rose, and from the evidence offered and from the statements of the Assistant United States Attorney and the attorney for the defendant, and the records in this cause, the court makes the following findings.

**Findings:** At the call of the matter, the defendant, by and through his attorney, denied the allegations contained in the violation report filed on November 30, 2007. Testimony was presented by the government through United States Probation Officer Eric G. Simpson.

The defendant was charged, in a bill of indictment filed on August 6, 2007 with the following offenses:

Count One: Conspiracy to distribute a controlled substance, that being methamphetamine;

Count Two: Possession of firearm during and in relation to a drug trafficking crime;

Count Three: Possession of a firearm by a convicted felon;

Count Four: Possession of a firearm by a person who is an unlawful user and addicted to a controlled substance;

Count Five: Possession of a firearm by a convicted felon; and

Count Six: Possession of a firearm by a person who is an unlawful user of and addicted to a controlled substance.

A hearing was held before United States Magistrate Judge Carl Horn, III on September 7, 2007. On that date, Judge Horn entered an order releasing the defendant on a \$25,000.00 unsecured bond. Judge Horn further set conditions of release which included the following:

(1) That the defendant shall not commit any offense in violation of federal, state or local law while on release in this case.

(7)(m) Refrain from use or unlawful possession of a narcotic drug or other controlled substances defined in 21 U.S.C. § 802, unless prescribed by a licensed medical practitioner.

On November 15, 2007 the defendant submitted to an urinalysis test as required by the terms and conditions of pretrial release. The results of that test showed that the defendant

had a positive test indicating that the defendant had used cocaine. The positive test for the use of cocaine was confirmed by further testing performed by STL/Kroll Laboratories.

**Discussion.** 18 U.S.C. § 3148(b)(1) provides as follows: The judicial officer shall enter an order of revocation and detention if, after a hearing, the judicial officer -----

(1) finds that there is----

(A) probable cause to believe that the person has committed a Federal, State, or local crime while on release; or

(B) clear and convincing evidence that the person has violated any other condition of release; and

(2) finds that ---

(A) based on the factors set forth in section 3142(g) of this title, there is no condition or combination of conditions of release that will assure that the person will not flee or pose a danger to the safety of any other person or the community; or

(B) the person is unlikely to abide by any condition or combination of conditions of release.

If there is probable cause to believe that, while on release, the person committed a Federal, State, or local felony, a rebuttable presumption arises that no condition or combination of conditions will assure that the person will not pose a danger to the safety of any other person or the community.”

Based upon the evidence, the undersigned finds that there is also probable cause to believe that the defendant committed a federal and state crime while on release. The defendant possessed cocaine so that he could consume that substance. That possession violated both federal and state law. The possession of cocaine is a felony under state law N.C.G.S. § 90-95(a)(3). Due to the fact that there is probable cause to believe that the defendant committed a state felony, a rebuttable presumption arises, pursuant to 18 U.S.C. § 3148, that no condition or combination of conditions would assure that the defendant

would not pose a danger to the safety of any other person or the community.

There has further been shown by clear and convincing evidence that the defendant violated other conditions of release in that it has been shown by clear and convincing evidence that the defendant violated the terms and conditions of release that ordered him to refrain from use or unlawful possession of a narcotic drug unless it was prescribed by a licensed medical practitioner. The defendant has clearly violated this condition by possessing cocaine which is a drug which is not prescribed by licensed medical practitioners.

Due to the findings made above and further considering the presumption that has been created and also considering the factors as set forth under 18 U.S.C. § 3142(g), it appears there is no condition or combination of conditions of release that will assure that the defendant will not pose a danger to the safety of any other person or the community. It is the opinion of the undersigned that based upon the defendant's actions, that it is unlikely that the defendant will abide by any condition or combination of conditions of release. As a result of the above referenced findings, the undersigned has determined to enter an order of revocation revoking the unsecured bond and the terms of pretrial release previously issued in this matter and entering an order detaining the defendant.

### **ORDER**

IT IS, THEREFORE, **ORDERED** that the unsecured bond and terms and conditions of pretrial release entered in this matter are hereby **REVOKED** and it is **ORDERED** that the defendant be detained pending further proceedings in this matter.

Signed: December 6, 2007

Dennis L. Howell

Dennis L. Howell  
United States Magistrate Judge

